

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STANDARD INSURANCE COMPANY,

Plaintiff,

v.

Civ. No. 22-664 KK/SCY

REBECCA ARMIJO LAKEY an individual,
XENA LAKEY, and E.L., a minor by and
through his mother HEATHER SHREVES, on
behalf of THE ESTATE OF RICHARD ALAN
LAKEY,

Defendants.

ORDER GRANTING MOTION FOR SERVICE BY PUBLICATION

Plaintiff Standard Insurance Company filed an interpleader regarding the proceeds of a life insurance policy. Plaintiff states that, despite best efforts, Plaintiff has been unable to serve Defendant Xena Lakey by traditional means and requests alternate service—namely, service by publication and by email. Doc. 11. The Court previously found that Plaintiff demonstrated that in-person service and service by mail to Defendant Xena Lakey’s home residence is not feasible because Lakey’s home residence is not ascertainable. Doc. 14. The Court ordered Plaintiff to supplement its motion to address whether Lakey’s place of business or employment is ascertainable. *Id.* Plaintiff has done so, confirming that a search revealed no employment records and a Facebook business with no contact information. Doc. 17.

The Court finds that under Federal Rule of Civil Procedure 4(e)(1) and NMRA 1-004(J), service by publication is justified because “service cannot reasonably be made as [otherwise] provided by this rule.” In addition, the Court finds that Plaintiff has shown that service by e-mail is likely to result in actual notice of the complaint and summons in this lawsuit. Doc. 13.

Therefore, the Court grants the motion and permits service on Defendant Xena Lakey as follows:

By publication in the Dallas Morning News, once a week, on Saturday, for a period of four weeks, the following:

Notice to XENA LAKEY: Standard Insurance Company has filed an interpleader action to resolve conflicting claims and interests of Rebecca Armijo Lakey, Xena Lakey, and E.L., a minor, by and through his mother, Heather Shreves, in a \$52,000 life insurance benefit that became payable upon the death of Richard Alan Lakey. The action is pending in the United States District Court for the District of New Mexico, Case No. 1:22-cv-00664-KK-SCY. This notice constitutes service of process upon you. Failure to appear and claim an interest in the life insurance benefit may constitute waiver of your claim of entitlement to the benefit.

By also mailing the above notice and the Summons and Complaint to the following address, which is Ms. Lakey's last known address: 1500 Turbeville Road, Lake Dallas, Texas 75065.

And finally, by emailing the above notice and the Summons and Complaint to Ms. Lakey's last known email address, which is xenajohnson6215@gmail.com, and to which she has previously responded.

Doc. 11 at 3.

It is further ordered that Plaintiff shall file an affidavit of service on the docket, once service is complete and no later than 90 days from the date of this Order.

SO ORDERED.


STEVEN C. YARBROUGH
UNITED STATES MAGISTRATE JUDGE